IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-09-2007

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.14658 of 2003 and
WPMP.No.18305 of 2003

M.Ramalingam .. Petitioner.

Versus

The Revenue Divisional Officer,
Cheyyar, Tiruvannamalai District. .. Respondent.

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, to call for the records on the file of the respondent in Roc.No.A3/4921/99, dated 07.04.2003, and quash the same as illegal, incompetent, unconstitutional and without jurisdiction.

For petitioner : Mr.V.Raghavachari

For respondent : Mr.A.Arumugam
Additional Government Pleader

O R D E R

Mr.A.Arumugam, learned Additional Government Pleader, takes notice for the respondent.

2. It is stated by the petitioner that according to the notification of the Collector, dated 09.09.1998, an extent of 5 hectares in Vinnamangalam Village was auctioned on 30.10.1998. In the said auction, the petitioner was declared as the highest bidder. On 08.12.1998, the petitioner's bid was confirmed by the District Collector in Proceedings No.843/Mines/98. However, the petitioner was not granted the quarrying permit. Therefore, the petitioner had filed the writ petition in W.P.No.843 of 1999, praying for a direction to the respondent to issue the quarrying permit, based on the confirmation of the auction in favour the petitioner. The said writ petition had been allowed in favour of the petitioner.

3. It has been further submitted by the petitioner that a notice was issued, on 08.09.2001, alleging that an inspection was made by the Assistant Director of Mines and that he had found several trucks of sand had been loaded using one permit. The said show cause notice, dated 08.09.2001, was vague as it did not disclose as to when the inspection had been made and the other particulars required by the petitioner. Thereafter, the petitioner had been called upon to attend an enquiry, on 17.03.2003. Even though the petitioner had pointed out that he had to

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attend an enquiry on the same day at Chennai, the respondent had not granted time to the petitioner to attend the enquiry on a different date. However, without complying with the request of the petitioner, the respondent had passed the impugned order, dated 07.04.2003, in Roc.No.A3/4921/99, demanding payment of Rs.25,000/- as penalty, Rs.15,80,800/- as cost of sand and Rs.3,35,920/- as seigniorage fee.

4. The main contention of the petitioner is that he had not been given an opportunity of attending the enquiry, on 17.03.2003 and the impugned order had been passed by the respondent without complying with the principles of natural justice. Therefore, the petitioner had submitted that the impugned order, dated 07.04.2003, passed by the respondent is illegal and invalid in the eye of law.

5. The learned Additional Government Pleader appearing on behalf of the respondent has not refuted the claims made on behalf of the petitioner.

6. Based on the submissions made by the counsels appearing for the parties concerned, the impugned order of the respondent, dated 07.04.2003, made in Roc.No.A3/4921/99 is set aside, directing the respondent to issue a fresh notice to the petitioner with regard to the issue in question and to pass appropriate orders thereon, on merits and in accordance with law, after affording to the petitioner a reasonable opportunity of hearing, within a period of eight weeks from the date of receipt of a copy of this order.

Accordingly, the writ petition is allowed with the above directions. No costs.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

csh

To
1. The Revenue Divisional Officer,
Cheyyar, Tiruvannamalai District.

+ 1 CC To Mr. V.Raghavachari, Advocate SR NO.56696

+ 1 CC to the Government Pleader SR NO 56819

Writ Petition No.14658 of 2003

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